

US EPA ARCHIVE DOCUMENT

ingredient may or may not be chemically active.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted relevant to the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemption will protect the public health.

Therefore, the tolerance exemption is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility

that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this

rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 9, 1994.

**Daniel M. Barolo,**  
Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

**PART 180—[AMENDED]**

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(c) is amended by adding and alphabetically inserting the inert ingredient, to read as follows:

**§ 180.1001 Exemptions from the requirement of a tolerance.**

\* \* \* \* \*  
(c) \* \* \*

Inert ingredients	Limits	Uses
Poly(oxyethylene/oxypropylene) monoalkyl(C <sub>6</sub> -C <sub>10</sub> )ether-sodium fumarate adduct (CAS Reg. No. 102900-02-7), minimum number-average molecular weight 1,900.		Surfactant.

\* \* \* \* \*  
FR Doc. 94-20331 Filed 8-23-94; 8:45 am]  
BILLING CODE 6580-60-F

**40 CFR Parts 266 and 268**  
[SW-FRL-6057-8]  
**Standards for the Management of Specific Hazardous Wastes; Amendment to Subpart C—Recyclable Materials Used in a Manner Constituting Disposal; Final Rule**  
AGENCY: Environmental Protection Agency.  
ACTION: Final rule and response to comments.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) is today amending § 266.20, which contains provisions for conditionally exempting hazardous waste-derived products used in a manner constituting disposal (i.e., applied to or placed on land) from the Resource Conservation and Recovery Act (RCRA) Subtitle C regulations. The proposed amendment to § 266.20 was published on February 23, 1994 (59 FR 8583). As specified in the proposal, EPA is amending § 266.20 so that certain

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uses of slag residues produced from the high temperature metal recovery (HTMR) treatment of electric arc furnace dust (EPA Hazardous Waste No. K061), steel finishing pickle liquor (K062), and electroplating sludges (F006) are not exempt from RCRA Subtitle C regulations. EPA's proposal also contained a definition for "non-encapsulated" uses of HTMR slags. Following a review of the public comments, EPA is clarifying the definition of non-encapsulated uses of HTMR slags by specifying these uses to be the anti-skid/deicing uses.

This action partially implements a settlement agreement entered into by EPA on August 13, 1993 with the Natural Resources Defense Council (NRDC) and Hazardous Waste Treatment Council (HWTC). This action will effectively prohibit anti-skid/deicing uses of HTMR slags derived from K061, K062, and F006, as waste-derived products placed on the land, since such uses will be allowed only if there is compliance with all Subtitle C standards applicable to land disposal. This rule does not prohibit other uses of these slags that meet § 266.20(b) requirements: The rule also does not prevent the disposal of HTMR slags in a Subtitle D unit if the residuals can meet the risk-based exclusion levels specified in § 261.3(c)(2). EPA plans to propose a regulatory determination on the remaining uses of HTMR slags by December, 1994.

**EFFECTIVE DATE:** This final rule is effective on February 24, 1995.

**ADDRESSES:** The official record for this rulemaking is identified as Docket Number F-94-SSHF-FFFFF, and is located in the EPA RCRA Docket, room 616 (Mail Code 5305), 401 M Street, SW., Washington, DC 20460. The docket is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, except on Federal holidays. The public must make an appointment to review docket materials by calling (202) 260-9327. A maximum of 100 pages may be copied at no cost. Additional copies cost \$0.15 per page.

**FOR FURTHER INFORMATION, CONTACT:** For general information contact the RCRA hotline, toll free at (800) 424-9346, or at (703) 412-9810. For specific questions concerning this notice, contact Narendra Chaudhari, Office of Solid Waste (Mail Code 5304), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260-4787.

## SUPPLEMENTARY INFORMATION:

### I. Background

The regulations under 40 CFR 266.20(b), promulgated in 1985, conditionally exempt hazardous waste-derived products used in a manner constituting disposal (i.e., applied to or placed on land) from the RCRA Subtitle C regulations. To be eligible for this exemption, the waste-derived products must meet treatment standards based on Best Demonstrated Available Technology (BDAT) developed under the Land Disposal Restrictions (LDR) program for the original hazardous wastes (see § 266.20(b)). Residuals ("slags") generated from the high temperature metals recovery (HTMR) treatment of hazardous waste K061 (electric arc furnace dust) and, to a limited extent, hazardous wastes K062 (steel finishing pickle liquor) and F006 (electroplating sludges), are eligible for this conditional exemption (assuming that legitimate recycling is occurring). Section 266.20(b) is applicable because the slags are processed into products which are used in highway construction (e.g., as road-base) or applied directly to road surfaces (i.e., as anti-skid/deicing agents).

In August 1991, EPA finalized a generic exclusion for K061 HTMR slags (extended to K062 and F006 HTMR slags in August 1992). Under this exclusion, these slags are excluded from hazardous waste regulations provided they meet designated concentration levels for 13 metals, are disposed of in a Subtitle D unit, and exhibit no characteristics of hazardous waste (§ 261.3(c)(2)).

The Natural Resources Defense Council (NRDC) and Hazardous Waste Treatment Council (HWTC) filed a petition for review challenging EPA's decision not to apply "generic exclusion levels"—levels at which K061 slags are deemed nonhazardous—to K061 slags used as waste-derived "products" and applied to or placed on land. The generic exclusion levels established for some metals in the K061 HTMR slags are lower than the BDAT standards that apply to K061. Therefore, while the generic exclusion requires nonhazardous K061 slags meeting exclusion levels to be disposed of in a Subtitle D unit, K061 slags that may exhibit metal levels above the exclusion levels (but below BDAT) may be used as products in a manner constituting disposal under the exemption in § 266.20(b). The petitioners pointed out the anomaly of the slag used in an uncontrolled manner being effectively subject to lesser standards than slag disposed in a controlled landfill.

On August 13, 1993, EPA entered into a settlement agreement with the petitioners which would address their concerns through two separate notice-and-comment rulemakings. EPA agreed to propose the first rule within 6 months of the settlement date (and issue a final rule within 12 months) to either establish generic exclusion levels for "non-encapsulated" uses of K061 slags, or effectively prohibit such uses of K061 slags on the land. EPA also agreed to propose a second rule within 16 months of the settlement date (and issue a final rule within 28 months) to establish generic exclusion levels for "encapsulated" uses of K061 slags on the land. The agreement specified that the generic exclusion levels will be based on an evaluation of the potential risks to human health and the environment from the use of K061 slags as waste-derived products, taking into account all relevant pathways of exposure.

### II. Summary of Proposed Rule

On February 23, 1994, EPA published in the *Federal Register* a proposed rule to prohibit (by amending § 266.20) non-encapsulated uses of slag residues derived from HTMR treatment of hazardous wastes K061, K062, and F006, as waste-derived products placed on land, unless there is compliance with all RCRA Subtitle C standards applicable to land disposal. EPA defined non-encapsulated uses to be uses in which the HTMR slag is not "contained, controlled, covered, or capped in a manner that eliminates or significantly reduces its mobility and potential for release into the environment (e.g., uses as anti-skid or deicing materials)."

EPA solicited comments on whether the necessary data are available to establish risk-based generic exclusion levels for HTMR slags used in non-encapsulated manners. EPA also solicited all available information on product uses of HTMR slags.

EPA did not seek to prohibit encapsulated uses of HTMR slags derived from K061, K062, and F006 that meet § 266.20 requirements. EPA also did not seek to prevent the disposal of HTMR slags in a Subtitle D unit if the residuals can meet the risk-based exclusion levels specified in § 261.3(c)(2).

### III. Public Comments on the Proposed Rule

EPA received comments on the proposed rule from thirteen interested parties. Three commenters supported the Agency's proposal to effectively prohibit non-encapsulated uses of

HTMR slags derived from K061, K062, and F006. One commenter, a citizen of a town where HTMR slag material is used as an anti-skid agent, strongly urged EPA to finalize the proposed prohibition on non-encapsulated uses of HTMR slags because of its lead content. Another commenter, the Department of Environmental Resources of a State with several HTMR facilities, stated that it agreed with the prohibition on non-encapsulated uses of HTMR slags because of the many potential pathways of exposure to this material and its unknown health risks. A third commenter, representing the Palmerton Citizens for Clean Environment, provided results of recent lead analysis for HTMR material supplied to a town as anti-skid material. The results, which were not accompanied by any quality assurance/quality control information, showed total concentrations of lead in the anti-skid material to be in the range of 1,800 ppm to 2,200 ppm (which agrees with waste characterization data obtained by EPA).

Because the above commenters are in agreement with the content of the proposed rule, EPA does not believe any response is necessary. The remaining commenters disagreed and/or were concerned about the proposed rule. These commenters also wanted EPA to provide certain clarifications if it planned to finalize the proposed rule.

In this preamble, EPA is presenting a summary of comments received on the proposed definition of non-encapsulated uses because it was the most significant issue for many of the commenters. EPA's response to these comments, as discussed below, resulted in a modification of the proposed rule (i.e., clarification regarding non-encapsulated uses which are prohibited). A summary of all major comments received that criticized the proposal, and EPA's responses to these comments, are provided in a "Response Comments Document," which is in the public docket for this rule.

Five commenters strongly urged the agency to limit the definition of non-encapsulated uses of HTMR slags to its uses as anti-skid/deicing materials (the uses specifically enumerated in the proposed rule). The commenters believed that EPA's proposed definition for "non-encapsulated" uses of HTMR slags ("those uses in which the HTMR slag is not contained; controlled, covered, or capped in a manner that eliminates or significantly reduces its mobility and potential for release into the environment") was vague and required a significant degree of interpretation.

EPA agrees with the commenters that the proposed definition for non-encapsulated uses lacked clarity and should be modified. EPA indicated in the proposal that the non-encapsulated uses of HTMR slags that it is most concerned about are its uses as anti-skid/deicing materials (59 FR 8583; February 23, 1994). This is because anti-skid/deicing uses involve frequent spreading of the HTMR slag materials on road surfaces (an apparently uncontrolled use), which may lead to many potential pathways of exposure to these materials. EPA believes that, if necessary, the second rulemaking required under the settlement agreement (which is to focus on "encapsulated" uses and is due to be proposed in December 1994) will be the appropriate place to address any other uses of concern. As a result, EPA has decided in this final rule to limit the prohibition on non-encapsulated uses of HTMR slags to its uses as anti-skid/deicing materials.

EPA solicited comments in the proposed rule on possible generic exclusion levels for HTMR slags used in non-encapsulated manners, and on the basis for setting these exclusion levels. No comments were received on ways to establish generic exclusion levels that adequately account for multiple potential exposure pathways. EPA, however, notes that it is developing a risk assessment for all major HTMR slag uses to support the second rulemaking required in the settlement agreement. EPA will consider results from this risk assessment (and any other relevant data which become available) to propose possible generic exclusion levels for encapsulated uses of HTMR slags. In addition, if the results of this assessment warrant, EPA may reconsider the prohibition for certain uses of HTMR slags finalized in this rulemaking.

#### IV. Final Agency Decision

This rule prohibits anti-skid/deicing uses of HTMR slags derived from K061, K062, and F006, as waste-derived products placed on the land, unless there is compliance with all Subtitle C standards applicable to land disposal.

In the proposal (59 FR 8583, February 23, 1994), EPA stated that it would prohibit non-encapsulated uses of HTMR slags derived from K061, K062, and F006, as waste-derived products placed on the land, unless there is compliance with all Subtitle C standards applicable to land disposal. EPA proposed to define the term "non-encapsulated" uses rather broadly to be "those uses in which the HTMR slag is

not contained, controlled, covered, or capped in a manner that eliminates or significantly reduces its mobility and potential for release into the environment (e.g., uses as anti-skid or deicing materials)". As discussed above, EPA agreed with commenters that this proposed definition was too vague, and instead has effectively prohibited uses of HTMR slags as anti-skid/deicing materials (which are believed to be the uses of greatest potential environmental concern).

Accordingly, EPA is amending the existing regulations under § 266.20 that conditionally exempt hazardous waste-derived products used in a manner constituting disposal from RCRA Subtitle C regulations to reflect this change. EPA is also including a cross-reference in § 268.41 (the Land Disposal Restriction treatment standards) which notes the restrictions placed on use of slags in § 266.20. The language of § 266.20 is revised to prohibit uses of HTMR slags as anti-skid/deicing materials, unless they comply with all of the applicable Subtitle C standards (i.e., permitting, minimum technology standards for land disposal units, financial responsibility, etc.). Since these requirements cannot realistically be met by entities that would use the HTMR slag in this fashion (i.e., entities are unlikely to seek land disposal permits for the placement of anti-skid/deicing materials on the roads), EPA is effectively prohibiting uses of HTMR slags as anti-skid/deicing materials. As noted earlier, EPA plans to propose a regulatory determination on the remaining uses of HTMR slags in the near future, and may also examine possible risk-based standards for these non-encapsulated uses.

#### V. Effective Date

This final rule is effective February 24, 1995. (See RCRA section 3010(a)). The Agency believes that this will provide sufficient time for affected parties to come into compliance.

#### VI. State Authority<sup>83A</sup>. Applicability of Rule in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and requirements for authorization are found in 40 CFR part 271.

Prior to the Hazardous and Solid Waste Amendments (HSWA) of 1984, a State with final authorization administered its hazardous waste program in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities that the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obliged to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under RCRA section 306(g), new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time that they take effect in non-authorized States. EPA is directed to carry out these requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-authorized provisions as State law to retain final authorization, HSWA applies in non-authorized States in the interim.

#### Effect on State Authorization

EPA views this final rule as a HSWA amendment. The rule can be viewed as part of the process of establishing land disposal prohibitions and treatment standards for K061, K062, and F006 hazardous wastes. (See 56 FR 41175; August 19, 1991.) The ultimate goal of land disposal prohibition provisions is to establish standards, "if any", which minimize short-term and long-term threats to human health and the environment posed by hazardous waste disposal. (See RCRA section 304(m)(1).) In this case, the Agency is uncertain what level of treatment would ensure that these threats are minimized when HTMR slag is used for anti-skid/curing purposes, and consequently is actively prohibiting this use. (See 57 FR 37237, August 18, 1992, interpreting "if any" clause in section 304(m)(1).) Thus, as noted above, EPA will implement this rule in authorized States until their programs are modified to adopt the new prohibition and the modification is approved by EPA.

This final rule will result in more stringent Federal standards. Section 1.21(e)(2) requires that States that have final authorization must modify their programs to reflect Federal program changes and must subsequently submit the modifications to EPA for approval.

States with authorized RCRA programs may already have requirements similar to those in this final rule. These State regulations have not been assessed against the Federal regulations being finalized today to determine whether they meet the tests for authorization. Thus, a State is not authorized to implement these requirements in lieu of EPA until the State program modifications are approved. Of course, States with existing standards could continue to administer and enforce their standards as a matter of State law. In implementing the Federal program, EPA will work with States under agreements to minimize duplication of efforts. In many cases, EPA will be able to defer to the States in their efforts to implement their programs rather than take separate actions under Federal authority.

## VII. Regulatory Impact

### A. Executive Order 12866

Under Executive Order 12866 (see 58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a "significant regulatory action" and is therefore not subject to OMB review.

### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., whenever an Agency is required to issue a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small

entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the Agency certifies that the rule will not have any impact on any small entities.

As noted in the proposal, this amendment will not have any significant impact on any small entities, since the regulated community will continue to have other readily available options for using and managing HTMR slags and small users will have readily available substitutes. This conclusion is supported by the economic analysis performed by the Agency in response to comments. The Agency estimated that the increase in annual cost for a small user as a result of this amendment would range between \$8,325 to \$15,300. (See the Response to Comments Document contained in the public docket for this rule for details of Agency's economic analysis.) Therefore, pursuant to section 605(b) of the Regulatory Flexibility Act, the Administrator certifies that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a formal regulatory flexibility analysis.

### C. Paperwork Reduction Act

The Agency has determined that there are no additional reporting, notification, or recordkeeping provisions associated with this proposed rule. Such provisions, were they included, would be submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

### List of Subjects in 40 CFR Parts 266 and 268

Environmental protection, Energy, Hazardous waste, Petroleum, Recycling, Reporting and recordkeeping requirements.

Dated: August 9, 1994.

Carol M. Browner,  
Administrator.

## PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

1. The authority citation for Part 266 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6934.

**Subpart C—Recyclable Materials Used in a Manner Constituting Disposal**

2. Section 266.20 is amended by adding a new paragraph (c) to read as follows:

**§ 266.20 Applicability.**

\* \* \* \* \*

(c) Anti-skid/deicing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of hazardous waste K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in paragraph (b) of this section and remain subject to regulation.

**PART 268—LAND DISPOSAL RESTRICTIONS**

3. The authority citation for Part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

4. Table CCWE in § 268.41(a) is amended by redesignating footnote 2 as footnote 3 at the end of the table and in the text at waste code FO20-FO23, and by adding a new footnote 2 at the end of the table and in the last column in the table, "Nonwastewaters/Notes", for waste codes F006, K061, and K062 to read as follows:

**268.41 Treatment standards expressed as concentrations in waste extract.**

(a) \* \* \*

<sup>2</sup> See also restrictions on use of slags for anti-skid/deicing purposes in § 266.20(c).

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**GENERAL SERVICES ADMINISTRATION****41 CFR Part 301-8**

[FTR Amendment 38]

IN 3090-AF54

**Federal Travel Regulation; Reimbursement of Higher Actual Subsistence Expenses in Special or Unusual Circumstances**

AGENCY: Federal Supply Service, GSA.  
ACTION: Final rule.

**SUMMARY:** This final rule removes the October 1, 1994 expiration date applicable to authority of the Administrator of General Services to establish, at the request of the head of an agency, a higher maximum daily rate for subsistence expenses not to exceed 100 percent of the maximum per diem rate prescribed in the Federal Travel

Regulation (FTR) (41 CFR chapters 301-304) for official travel to an area within the continental United States (CONUS) where special or unusual circumstances result in an extreme increase in subsistence costs for a temporary period. This action will permit the Administrator of General Services to continue to consider agency requests for a higher actual subsistence expense reimbursement rate for a CONUS location where special or unusual circumstances result in an extreme increase in subsistence costs for a temporary period.

**EFFECTIVE DATE:** This final rule is effective October 1, 1994.

**FOR FURTHER INFORMATION CONTACT:**

Larry A. Tucker, Transportation Management Division (FBX), Washington, DC 20406, telephone 703-305-5745.

**SUPPLEMENTARY INFORMATION:** The General Services Administration (GSA) issued FTR Amendment 7 (55 FR 2379, Jan. 24, 1990) to accommodate requests from the Federal Emergency Management Agency for establishment of a higher maximum daily rate for reimbursement of actual subsistence expenses in a Presidentially declared disaster area. This change was prompted by the devastation Hurricane Hugo inflicted upon a broad area surrounding Charleston, SC in September 1989, resulting in a severe shortage of affordable lodging for Federal emergency personnel performing temporary duty there. GSA expanded the authority in FTR Amendment 19 (56 FR 37478, Aug. 7, 1991) to accommodate requests from an agency head for establishment of a higher actual subsistence expense reimbursement rate for a location within the continental United States where special or unusual circumstances result in an extreme increase in subsistence costs for a temporary period.

GSA has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993. This final rule is not required to be published in the *Federal Register* for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

**List of Subjects in 41 CFR Part 301-8**

Government employees, Travel, Travel allowances, Travel and transportation expenses.

For the reasons set out in the preamble, 41 CFR part 301-8 is amended to read as follows:

**PART 301-8—REIMBURSEMENT OF ACTUAL SUBSISTENCE EXPENSES**

1. The authority citation for part 301-8 continues to read as follows:

Authority: U.S.C. 5701-5709; E.O. 11609, 36 FR 13747, 3 CFR, 1971-1975 Comp., p. 586.

2. Section 301-8.3 is amended by revising paragraph (c) to read as follows:

**§ 301-8.3 Maximum daily rates and reimbursement limitations.**

\* \* \* \* \*

(c) *Travel to an area within CONUS where special or unusual circumstances result in an extreme increase in subsistence costs for a temporary period*—(1) *Authority to establish a higher actual subsistence expense reimbursement rate.* The Administrator of General Services may establish an appropriate maximum daily rate for reimbursement of actual subsistence expenses not to exceed 300 percent of the maximum per diem rate prescribed in § 301-7.3(a) of this chapter when the following conditions are met:

(i) Travel is to an area within CONUS where special or unusual circumstances result in an extreme increase in subsistence costs for a temporary period;

(ii) The head of an agency submits a request, as specified in paragraph (c)(3) of this section, for establishment of a maximum daily rate above the maximum rate prescribed in paragraph (a) of this section; and

(iii) The justification supporting the request warrants establishment of a higher rate.

(2) *Application and limitations.* Such higher established rate shall apply for all official travel to the area, and will be effective for a period not to exceed 30 days. When the Administrator establishes a higher actual subsistence expense rate, the limitation in paragraph (b)(1) of this section shall not apply.

(3) *Rate requests.* A request for a higher actual subsistence expense reimbursement rate, with the exception of a request for travel to a Presidentially declared disaster area, shall be submitted at least 30 days in advance of the beginning of the recommended effective period unless otherwise adequately justified. The request shall be submitted in writing to the Administrator of General Services, Washington, DC 20405, and must contain the following information:

(i) A specification of the geographic area encompassed;

(ii) If the area is a Presidentially declared disaster area, a copy of the Presidential disaster declaration;